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COUNTY LAW LIBRARY ASSOCIATION, TRUSTEES—UNDER SECTION 3056-2 G. C. CLERKS OF COMMON PLEAS AND PROBATE COURTS SHALL CONTRIBUTE TO SUCH TRUSTEES NOT TO EXCEED \$1250.00 PER ANNUM FROM FINES AND PENALTIES AND FROM CASH DEPOSITS, BAIL BONDS AND RECOGNIZANCES FORFEITED — OFFENSES AND MISDEMEANORS.

SYLLABUS:

Under the provisions of Section 3056-2, General Code, the clerks of the common pleas and probate courts together shall contribute to the trustees of the county law library association not to exceed \$1250.00 per annum out of the moneys arising from fines and penalties levied, and from cash deposits,

bail bonds and recognizances taken by said courts, which have become forfeited, on account of offenses and misdemeanors brought for prosecution in such courts in the name of the state.

Columbus, Ohio, January 31, 1940.

Hon. Ferdinand E. Warren, Prosecuting Attorney,
Ottawa, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion on the following:

"I have been requested for an opinion on the interpretation of Ohio General Code 3056-2, which reads as follows:

'In each county of the state, all monies arising from fines and penalties levied, and from cash deposits, bail bonds and recognizances taken by the common pleas and probate courts of such county, which have become forfeited, on account of offenses and misdemeanors brought for prosecution in such courts in the name of the state, shall be retained and paid monthly by the clerk of such courts to the trustees of such law library associations, but the total sums so paid therefrom shall not exceed \$1250.00 per annum, and when that amount shall have been paid to the trustees of such library association, in accordance with the provisions of this section, then no further payments shall be required thereunder in that calendar year from the clerks of such respective courts.'

Former Section 3056 which is replaced by this section uses the words 'total sum' in the singular while the amended section used the words 'total sums'.

I would like to know whether under the new section the total sum of \$1250.00 includes both the probate court and common pleas or whether the law library is entitled not to exceed \$1250.00 from each court."

The first legislation which was enacted to promote and encourage law library associations in Ohio was passed by the 60th General Assembly in 1872 (69 O. L. 165). The subject matter thereof, later incorporated into the Ohio General Code as Section 3056, was subsequently amended on several occasions; 89 O. L. 51, 91 O. L. 296, 94 O. L. 135, but we need not inquire into those amendments for the reason that the clerks of common pleas and probate courts were under no duty to contribute to the support of such

associations until the 78th General Assembly amended Section 3056 (101 O. L. 295) to read in part as follows:

“ * * * In all counties the fines and penalties assessed and collected by the common pleas court and probate court for offenses and misdemeanors prosecuted in the name of the state, shall be retained and paid quarterly by the clerk of such courts to the trustees of such library association, but the sum so paid from the fines and penalties assessed and collected by the common pleas and probate courts shall not exceed five hundred per annum. The moneys so paid shall be expended in the purchase of law books and the maintenance of such association.”

Said section was again amended in 1929, (113 O. L. 249) and in 1930, (114 O. L. 89) but in manners not material to the problem at hand. The present General Assembly in Amended Senate Bill No. 46, effective August 31, 1939, amended said Section 3056 and supplemented it by enacting supplemental Section 3056-2, the provisions of which are completely set forth in your communication.

In view of this recent legislation you inquire whether the clerk of the common pleas court and the clerk of the probate court within a county are each required to contribute not to exceed \$1,250.00 per annum to the trustees of the law library association of the county or whether the amounts paid in by both, when added together, shall not exceed \$1,250.00 per annum.

Your question is prompted in part by reason of the fact that Section 3056-2 contains the words “total sums” whereas the former analogous section, from the time of its original enactment as pointed out above, used the singular “sum”. It will also be noted that the language of Section 3056-2 differs in other respects from Section 3056 (114 O. L. 89). Former Section 3056 provided:

“ * * * but the sum so paid from the fines and penalties assessed and collected by the common pleas and probate courts shall not exceed five hundred dollars per annum.”

Section 3056-2, reads in part:

“ * * * but the *total sums* so paid therefrom shall not exceed \$1250.00 per annum, and when that *amount* shall have been paid to the trustees of such law library association, in accordance with the provisions of this section, then no further payments shall be required thereunder in that calendar year from the clerks of such respective courts.”

(Emphasis mine)

An answer to your question requires that we determine to what the word "therefrom", as it appears in the quotation above, refers. Comparing the language above quoted from former Section 3056 with Section 3056-2 it would appear that "therefrom" can only refer to "all" monies arising from fines and penalties levied, and from cash deposits; bail bonds and recognizances taken by the common pleas *and* probate courts of such county, which have become forfeited, on account of offenses and misdemeanors brought for prosecution in such courts in the name of the state" (emphasis mine).

The section further provides that the total sums or amounts paid from those sources shall not exceed \$1,250.00 per annum and when that *amount* has been paid no further payments shall be required from the respective clerks. In line with what has been said, I can not see that the use of the words "sums" instead of "sum" makes any material difference. The word "sum" is defined in Webster's New International Dictionary as follows:

"The aggregate of two or more numbers, magnitudes, quantities, or particulars; the amount or whole of any number of individuals or particulars added together."

The \$1,250.00 is comprised of monies from a number of sources, to-wit, fines, penalties, etc. within both courts in question. Applying the above definition, it would seem that "total sums" as used in Section 3056-2 means the aggregate of the monies arising from those sources. I do not feel the words "total sums so paid therefrom" refer to the total monies paid by each court, but rather refer to the monies arising from the several sources in question within both courts.

This view is strengthened by the use of the word "amount" in Section 3056-2, *supra*. Had the Legislature intended the clerk of each court to pay not to exceed \$1,250.00 per annum to the law library association, the plural "amounts" would have been used. The Legislature considered together the revenues arising out of the common pleas and probate courts and I am, therefore, of the view that it contemplated the maximum amount which a law library association might receive in any one year from those courts together was \$1,250.00 and not \$2,500.00.

In view of the foregoing and in specific answer to your question, I am of the opinion that under the provisions of Section 3056-2, General Code, the clerks of the common pleas and probate courts together shall contribute to the trustees of the county law library association not to exceed \$1,250.00

per annum out of the moneys arising from fines and penalties levied, and from cash deposits, bail bonds and recognizances taken by said courts, which have become forfeited, on account of offenses and misdemeanors brought for prosecution in such courts in the name of the state.

Respectfully,

THOMAS J. HERBERT,
Attorney General.